

**RESOLUTION**

**SUSPENDING THE OPTION TO SELL AFFORDABLE HOUSING UNITS AS MARKET RATE UNITS FOR SUCH UNITS WHOSE TERM OF DEED RESTRICTION IS SET TO EXPIRE**

**WHEREAS**, the New Jersey Supreme Court and New Jersey Legislature have recognized and mandated in So. Burlington County NAACP v. Mount Laurel, 92 N.J. 158 (1983) and the Fair Housing Act, N.J.S.A. 52:27D-301 *et seq.* that every municipality in New Jersey has an affirmative obligation to facilitate the provision of affordable housing; and

**WHEREAS**, affordable housing units created within the State of New Jersey pursuant to regulations promulgated by the New Jersey Council on Affordable Housing have been subject to the regulations enforceable as deed restrictions on such units as set forth in N.J.A.C. 5:93-9.1, *et seq.*; and

**WHEREAS**, affordable housing units within the State of New Jersey are subject to the regulations promulgated as the New Jersey Uniform Housing Affordability Controls, N.J.A.C. 5:80-1, *et seq.*; and

**WHEREAS**, pursuant to N.J.A.C. 5:93-9.8, an eligible seller of a low or moderate income unit which have the exceeded the time period for affordability controls in the deed restrictions may exercise the repayment option and sell to any purchaser at market price, providing that 95% of the price differential is paid to the administrative entity, as an instrument of the municipality, at closing; and

**WHEREAS**, N.J.A.C. 5:93-9.9 and 5:94-4.16 provide that a municipality may address a portion of its affordable housing obligation through the extension of affordability controls by municipal rejection of the repayment option for a period of time; and

**WHEREAS**, N.J.A.C. 5:97-6.14 provides that a municipality may address a portion of its affordable housing obligation through the extension of affordability controls by municipal rejection of the repayment option for a period of time; and

**WHEREAS**, whereas the New Jersey Appellate Division and Supreme Court have both specifically approved of the continued viability of the aforementioned regulations and the extension of affordability controls via the municipal rejection of the repayment option in In re Adoption of N.J.A.C. 5:94 & 5:95 and Mt. Laurel IV; and

**WHEREAS**, N.J.A.C. 5:80-26.25(a) provides that “a municipality shall have the right to determine that the most desirable means of promoting an adequate supply of low-and-moderate income housing is to prohibit the exercise of the repayment option and maintain controls on lower income units sold within the municipality beyond period required by N.J.A.C. 5:93-9.2”; and

**WHEREAS**, pursuant to N.J.A.C. 5:80-26.25(a) the determination to prohibit the exercise of the repayment option shall be made by a Resolution of the municipal governing body; and

**WHEREAS**, pursuant to Resolution 08-12-01-343, adopted on December 1, 2008, the Township of Bridgewater prohibited the exercise of the repayment option for certain affordability housing units in Bridgewater Oaks Condominium, Crossroads Condominium, and Vanderhaven Farms Condominium for a period of thirty (30) years in accordance with N.J.A.C. 5:80-26.25(a), which units are more specifically identified on, but not limited to, those properties listed on Schedule A attached hereto; and

**WHEREAS**, the Council on Affordable Housing and the Superior Court have recognized and accepted the Township of Bridgewater's prohibition on the exercise of the repayment option for certain affordability housing units in Bridgewater Oaks Condominium, Crossroads Condominium, and Vanderhaven Farms Condominium for a period of thirty (30) years in accordance with N.J.A.C. 5:80-26.25(a)

**WHEREAS**, the Township of Bridgewater entered into a Settlement Agreement with the Fair Share Housing Center dated February 17, 2017 for its 1999-2025 affordable housing obligations, which anticipated the extension of certain affordable housing units within the municipality in Beacon Hill Condominium, Bridle Club Condominium, Glenbrook Condominium, Stratford Place Condominium, and Stratton Meadows Condominium, as more specifically identified on, but not limited to, those properties listed on Schedule A attached hereto; and

**WHEREAS**, the Hon. Thomas C. Miller, P.J.Cv. held a Fairness Hearing and determined on June 6, 2017 that the aforementioned Settlement Agreement was fair and reasonable to the interests of lower-income households; and

**WHEREAS**, the affordable housing deed restrictions on certain existing affordable housing units within the municipality are set to expire on or before December 31, 2027, with those units being located in the Beacon Hill Condominium, Bridle Club Condominium, Glenbrook Condominium, Stratford Place Condominium, and Stratton Meadows Condominium and as more specifically identified on, but not limited to, those properties listed on Schedule A attached hereto; and

**WHEREAS**, the prohibition of the exercise of the repayment for affordable housing units is only effective as to those units for which a unit owner has agreed or does agree in the future prior to the expiration of their affordability controls to subject themselves to extension pursuant to N.J.A.C. 5:93-9.9, N.J.A.C. 5:94-4.16, N.J.A.C. 5:97-6.14, N.J.A.C. 5:80-26.25, or any other law, regulation, court ruling, deed, master deed, or agreement that would otherwise provide the municipality with the ability to extend affordability controls; and

**WHEREAS**, Beacon Hill Condominium has recorded on January 9, 1989 a certain Master Deed, with the Somerset County Clerk in Deed Book 1718, page 346, which establishes within such condominium affordable housing units subject to the Code of the Township of Bridgewater and the Laws of the State of New Jersey; and

**WHEREAS**, Bridle Club Condominium has recorded on January 24, 1990, a certain Master Deed, with the Somerset County Clerk in Deed Book 1764, page 164, which establishes within such condominium affordable housing units subject to the Code of the Township of

Bridgewater and the Laws of the State of New Jersey; and

**WHEREAS**, Glenbrook Condominium has recorded on October 10, 1991, a certain Master Deed, with the Somerset County Clerk in Deed Book 1833, page 387, which establishes within such condominium affordable housing units subject to the Code of the Township of Bridgewater and the Laws of the State of New Jersey; and

**WHEREAS**, Stratford Place Condominium has recorded on April 28, 1992, a certain Master Deed, with the Somerset County Clerk in Deed Book 1584, page 374, which establishes within such condominium affordable housing units subject to the Code of the Township of Bridgewater and the Laws of the State of New Jersey; and

**WHEREAS**, Stratton Meadows Condominium has recorded on April 25, 1996, a certain Master Deed, with the Somerset County Clerk in Deed Book 2056, page 585, which establishes within such condominium affordable housing units subject to the Code of the Township of Bridgewater and the Laws of the State of New Jersey and which also expressly subjects all units therein to the municipal ability to extend affordability controls; and

**NOW, THEREFORE, BE IT RESOLVED** that the Township Council of the Township of Bridgewater, County of Somerset and State of New Jersey has determined, in accordance with N.J.A.C. 5:80-26.25, N.J.A.C. 5:93-9.9, N.J.A.C. 5:94-4.16, and N.J.A.C. 5:97-6.14 that the most desirable means of promoting an adequate supply of low and moderate income housing is to prohibit the repayment option set forth in N.J.A.C. 5:93-9.8 and to maintain controls on lower income housing units sold within the municipality beyond the period required by N.J.A.C. 5:93-9.2; and

**BE IT FURTHER RESOLVED** that subject to and upon the New Jersey Council on Affordable Housing's receipt of this Resolution, the Township of Bridgewater does hereby prohibit the exercise of the repayment option, as set forth in N.J.A.C. 5:80-26.25, and does maintain the continued operation of the affordability controls on such affordable housing units within the municipality as are herein identified in the annexed inventory of units, on or before December 31, 2027. Such prohibition shall be for a period of thirty (30) years beyond the original date set forth for same pursuant to N.J.A.C. 5:93-9.2 or any other applicable law, rule, regulation, deed, or agreement. During such an extended period, no seller may utilize the repayment option permitted by N.J.A.C. 5:93-9.8; and

**BE IT FURTHER RESOLVED** that the aforementioned extension of affordability controls is immediately effective as to those units identified on Schedule A as having agreed to subject their unit to extension pursuant to N.J.A.C. 5:93-9.9, N.J.A.C. 5:94-4.16, N.J.A.C. 5:97-6.14, N.J.A.C. 5:80-26.25, or any other law, regulation, court ruling, deed, master deed, or agreement that would otherwise provide the municipality with the ability to extend affordability controls; and

**BE IT FURTHER RESOLVED** that this Resolution and the associated extension of affordability controls shall become effective as to any units identified on Schedule A

wherein the unit owner has not yet agreed to subject their unit to extension pursuant to N.J.A.C. 5:93-9.9, N.J.A.C. 5:94-4.16, N.J.A.C. 5:97-6.14, N.J.A.C. 5:80-26.25, or any other law, regulation, court ruling or agreement that would otherwise provide the municipality with the ability to extend affordability controls, but, prior to the expiration of their affordability controls agrees to subject themselves to such extension; and

**BE IT FURTHER RESOLVED** that the Township Clerk is directed to (a) provide public notice of the adoption of this Resolution by publishing it in a newspaper of general circulation in the Township of Bridgewater; (b) notify the Township of Bridgewater affordable housing administrative agent of the adoption of this Resolution; and (c) notify the Council on Affordable Housing of the adoption of this resolution; and

**BE IT FURTHER RESOLVED** that the affordable housing administrative agent for the Township of Bridgewater shall direct that this Resolution and/or any other pertinent documents effectuating same be recorded with the Clerk of Somerset County so as to provide additional notice of the prohibition and effective extension of the period of controls of the deed restrictions on all affected housing units.

Introduced	Seconded	Council	Aye	Nay	Abstain	Absent
		Moench	✓			
✓		Norgalis	✓			
		Pedroso	✓			
	✓	Rose	✓			
		Kurdyla	✓			

Adopted: September 7, 2017